

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION

Rateek Allah, a/k/a Lincoln Moody, a/k/a  
Jose, a/k/a Antonio Espinoza,

Plaintiff,

v.

Mr. Fredericks, Unit Manager,

Defendants.

Civil Action No. 9:19-411-BHH

**ORDER**

This matter is before the Court upon Plaintiff's *pro se* complaint filed pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). On March 9, 2020, Defendant filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(1). (ECF No. 40.) Plaintiff filed a response in opposition (ECF No. 54), Defendant filed a reply (ECF No. 55), and Plaintiff filed a sur-reply (ECF No. 56). A United States Magistrate Judge, in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2) (D.S.C.), entered a report and recommendation ("Report") recommending dismissal of the action for failure to state a plausible claim. (ECF No. 60 at 10.)

Attached to the Magistrate Judge's Report was a notice advising Plaintiff of the right to file written objections to the Report within fourteen days of being served with a copy. (*Id.* at 12.) On November 13, 2020, the envelope containing Plaintiff's copy of the Report was returned to the Clerk of Court, marked "RETURN TO SENDER, REFUSED, UNABLE TO FORWARD." (ECF No. 62 at 1.) Plaintiff was advised by Orders filed on April 18, 2019, and May 6, 2019, of his responsibility to notify the Court in writing if his address changed and that his case could be dismissed for failing to comply with the Court's Orders. (ECF Nos. 9 & 14.)

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” (quoting Fed. R. Civ. P. 72 advisory committee’s note)).

Here, because no objections were filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no clear error and agrees with the Magistrate Judge’s findings. Accordingly, the Court adopts and incorporates the Magistrate Judge’s Report (ECF No. 60), and the Court grants Defendant’s motion to dismiss (ECF No. 40).

**IT IS SO ORDERED.**

/s/Bruce H. Hendricks  
United States District Judge

December 17, 2020  
Charleston, South Carolina

\*\*\*\*\*

#### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.